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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,812	02/20/2004	Barry Gammon	GAM-001CON	7060

35557 7590 01/31/2005

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EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,812	Applicant(s) GAMMON, BARRY 6D	
	Examiner Hadi Shakeri	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

1. In view of the Appeal Brief filed on 11/23/04, PROSECUTION IS HEREBY REOPENED.

New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Examiner sincerely regrets any inconvenience this may have caused the appellant.

Claim Rejections - 35 USC § 102

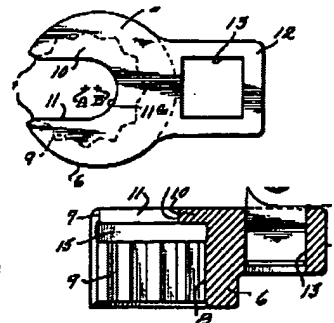
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, US Patent No. 2,715,347.

Johnson discloses all the limitations, i.e., a socket having a center line (B) and a perimeter (Fig. 3), first face (bottom face as shown in Figs. 2 and 4), an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region (8) adjacent to the



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first face (first face separated from the second face by web 10) having a center line (A) offset from (B) and includes a step (defined by 10 or 15) against which the connection element rests during rotation of the socket body, and wherein the second face includes a port (13) that does not extend to the first face, having a center line that is not in alignment with the socket body positioned within the perimeter of the socket body.

Regarding claim 2, Johnson meets the limitations.

Claim Rejections - 35 USC § 103

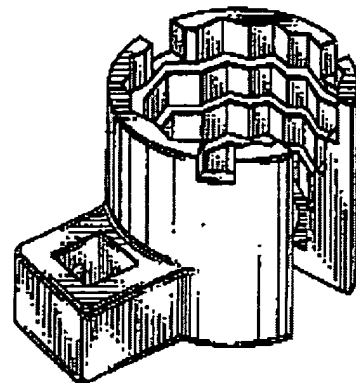
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Farnan et al., US Patent No. Des. 376,521.

Johnson meets all the limitations of the claims except for stepped polygonal and rounded configurations, and wing slots. Farnan et al. teaches stepped polygonal configurations having wing slots. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Johnson with the polygonal stepped configuration and wing slots as taught by Farnan et al. to adapt the tool for driving different sized fasteners and fasteners having wings.

Regarding the rounded configuration claim 5, It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the receiving section rounded instead of polygonal for

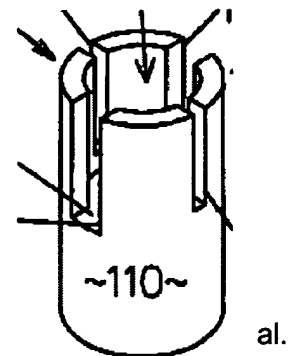


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wing nuts having rounded head, since it has been held that changing shape, dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954).

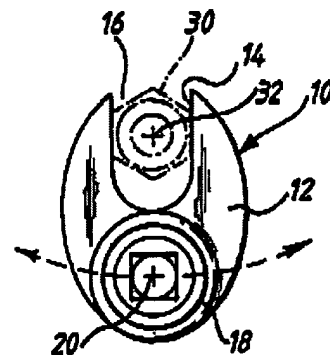
6. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view Makovsky et al., US Patent No. 5,697,268.

Johnson meets all the limitations of the above claims except for wing slots and rounded configurations. Makovsky et al. teaches wing nut driver having slots. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Johnson with the configuration and wing slots as taught by Makovsky et al. to adapt the tool for driving fasteners having wings.



7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (GB 2 266 257) in view Farnan et al.

Higgins meets all the limitations of the claim 1, i.e., a socket having a center line and a perimeter, first face and an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region adjacent to the first face having a center line that is not in alignment with the centerline of the socket body (Fig. 1) and wherein the second face includes a port (24) that does not extend to the first face of the socket body, the port having a center line that is not in alignment with the center line of the socket body, except for a step against which the connection element rests during rotation of the socket body. Farnan et al. teaches stepped polygonal configurations having wing slots. It would have



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been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Higgins with the polygonal stepped configuration and wing slots as taught by Farnan et al. to adapt the tool for driving different sized fasteners and fasteners having wings.

Regarding claims 2-4 and 6, Higgins as modified by Foeman et al. meets the limitations.

Regarding the rounded configuration, claim 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the receiving section rounded instead of polygonal for wing nuts having rounded head, since it has been held that changing shape, dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954).

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-6 are rejected under the judicially created doctrine of double patenting over claims 1-6 of U. S. Patent No. 6,701,807 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is anticipated in the patent and is covered by the patent since the patent and the application are claiming common subject matter,

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as follows: socket body having step and ports of different axes for the receiving section, socket body and the port.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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January 25, 2005